

2009R00185
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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Plaintiff,

v.

JOHN EICHNER

Defendant.

Honorable Jerome B. Simandle, U.S.D.J.

Criminal No. 10-

CONSENT JUDGMENT AND
PRELIMINARY ORDER OF FORFEITURE

WHEREAS, on November 9, 2010, the United States filed an Information against John Eichner (hereinafter "Defendant"), charging him with wire fraud in violation of 18 U.S.C. §§ 1343 and 2, and tax evasion in violation of 26 U.S.C. § 7201; and

WHEREAS, on November 9, 2010, the defendant pled guilty to the Information; and

WHEREAS, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, a person convicted of an offense in violation of 18 U.S.C. §§ 1343 and 2 shall forfeit to the United States any property which constitutes or is derived from proceeds traceable as a result of the offense; and

WHEREAS, by virtue of the above, the United States is now entitled to the possession of \$143,458.00 in United States currency (hereinafter the “Property”); and

WHEREAS the Defendant acknowledges that the Property was involved in an offense in violation of 18 U.S.C. §§ 1343 and 2, that it constitutes property or is derived from proceeds traceable as a result of the offense, and that the Property is therefore subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461; and

WHEREAS the Defendant agreed to forfeit the Property, waives all interests in and claims to the Property, and hereby consents to the forfeiture of the Property to the United States; and

WHEREAS the Defendant:

(1) Agrees to consent promptly upon request to the entry of any orders deemed necessary by the Government or the Court to complete the forfeiture and disposition of the Property;

(2) Waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of forfeiture in the charging instrument, announcement of the forfeiture in the Defendant’s presence at sentencing, and incorporation of the forfeiture in the Judgment;

(3) Acknowledges that he understands that forfeiture

of the Property will be part of the sentence imposed upon the Defendant in this case and waives any failure by the Court to advise the Defendant of this, pursuant to Federal Rule of Criminal Procedure 11(b)(1)(J), during the plea hearing;

(4) Will, pursuant to Rule 32.2(b)(3), promptly consent to the finalization of the order of forfeiture before sentencing if requested by the Government to do so;

(5) Waives, and agrees to hold the United States and its agents and employees harmless from, any and all claims whatsoever in connection with the seizure, forfeiture, and disposal of the Property described above;

(6) Waives all constitutional and statutory challenges of any kind to any forfeiture carried out pursuant to this consent judgment; and

(7) Agrees to cooperate in resolving third-party claims in favor of the United States, and for good and sufficient cause shown,

It is hereby **ORDERED, ADJUDGED, AND DECREED:**

THAT the Property, namely \$143,458.00 in United States currency, is hereby forfeited to the United States of America pursuant to 18 U.S.C. §

981(a)(1)(C) and 28 U.S.C. § 2461, for disposition in accordance with the provisions of 21 U.S.C. § 853 as incorporated by 28 U.S.C. §2461; and

THAT, pursuant to 21 U.S.C. § 853(n)(1), the United States shall publish notice of this Order and of its intent to dispose of the property in such a manner as the Attorney General may direct, including posting notice on the official internet government forfeiture site, namely www.forfeiture.gov, for at least 30 consecutive days; and

THAT, pursuant to 21 U.S.C. § 853(n)(2), any person, other than the Defendant, asserting a legal interest in any of the above-listed property must file a petition with the Court within **thirty (30)** days of the final publication of notice or of receipt of actual notice, whichever is earlier, and state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property; and

THAT, pursuant to 21 U.S.C. § 853(n)(3), the petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the forfeited property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, and any additional facts supporting the petitioner's claim and the relief sought; and

THAT the United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the

property that is the subject of this Preliminary Order of Forfeiture, as a substitute for published notice as to those persons so notified; and

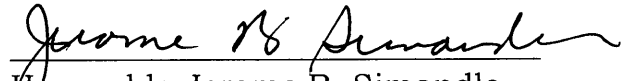
THAT the aforementioned forfeited property is to be held by the appropriate United States agency in its secure custody and control until the appropriate disposition of said Property by the United States; and

THAT it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of the Defendant up to the value of the property described above, if the Property or any portion thereof, as a result of any act or omission of the Defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty; and

THAT upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

ORDERED this 9th day of November, 2010.

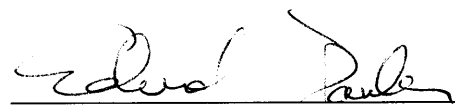

Honorable Jerome B. Simandle
United States District Judge

The undersigned hereby
consent to the entry and
form of this order:

PAUL J. FISHMAN
United States Attorney


By: CHRISTOPHER J. KELLY
Assistant United States Attorney

Dated: 11/9/10


EDWARD DAUBER, ESQ.
Attorney for Defendant John Eichner

Dated: 11/9/10

